

#16

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Donovan et al.

Serial No: 09/436,796

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Title: METHOD AND SYSTEM FOR
DYNAMIC GATEWAY
SELECTION IN AN IP
TELEPHONY NETWORK

Group Art Unit: 2662

Examiner: Logsdon

RESPONSE

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BOARD OF PATENT APPEALS
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Attention: Board of Patent Appeals and Interferences
Assistant Commissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

I certify that I deposited this Reply to Examiner's Answer with
the United States Post Office Express Mail Label
EV224102455US on October 10, 2002.


Lynn L. Pond

Pursuant to 37 C.F.R. § 1.193, Appellants hereby reply to the new points of argument raised in the Examiner's Answer (Answer). You are hereby authorized to charge deposit account No. 13-2491 for any other necessary fees.

The Appellant's note with appreciation that the Examiner has indicated that claims 1-28 are deemed to be enabled under 35 U.S.C. §112, and that the subject matter of claims 1-28 is allowable under 35 U.S.C. §102 and 35 U.S.C. §103.

NEW POINTS OF ARGUMENT RAISED IN ANSWER AND APPELLANT'S REPLY

Examiner's New Point of Argument:

Claims 1, 16, and 19 each state that the IP telephony proxy server receives a call set-up request from the source user agent that identifies the destination user agent. The Examiner points out that the specification states that "The SIP INVITE specifies the real

IP address of the DUA 103.” The gist of the Examiner’s argument is that the SIP INVITE message transmitted by the SUA does not identify the DUA.

In paragraph 11 of the Answer, the Examiner points out that the specification states that “The SIP INVITE specifies the real IP address of the DUA 103,” whereas the claims recite that “the call set-up request identifies the destination user agent.” The Examiner states that “apparently, the Appellant believes that these sentences mean the same thing.” On page 4 of the Answer, the Examiner attempts to link the DUA of the present invention to a device identified as “play” in the Schultzrinne reference. The Examiner states that the proxy address in Schultzrinne is henning@cs.columbia.edu. According to the Examiner, this identifies the user as “Henning,” but not the DUA “play.” As discussed in more detail below, the Examiner seems to contradict himself when he points out that, according to the Schultzrinne reference, the SIP INVITE message has the form “user@IP address.”

The Examiner introduces new art (Bhaskaran) to support his arguments.

Finally, the Examiner states that it is a well known principle that “a user can travel from one DUA to another, while maintaining the same IP address; therefore, each DUA can change its IP address, while the user maintains the same IP address.” He concludes by saying that his above stated rationale proves that the specification of an IP address does not necessarily identify that device.

Appellant’s Reply:

The Appellants respectfully disagree with the Examiner’s assertions. The claim recitation that “the call set up request identifies the destination user agent,” as defined in the specification, is adequately described in the specification, under 35 U.S.C. §112. At issue is whether claim language should be defined by an applicant’s specification or by the Examiner.

The Examiner contends that the claims should be interpreted in light of any reference (Schultzrinne, Bhaskaran, etc.) the Examiner produces at any point during the process. The Appellants point out that it is improper for the Examiner to introduce a new reference (Bhaskaran) at this juncture. The Appellants also point out the proper standard

is that claims are to be given their broadest reasonable interpretation consistent with the specification. *In re Zletz*, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

As discussed above, the Examiner points out that the specification states that “the SIP INVITE specifies the real IP address of the DUA 103,” whereas the claims recite that “the call set-up request identifies the destination user agent.” The Examiner states that “apparently, the Appellant believes that these two sentences mean the same thing.” In the following paragraphs the Appellants explain why the above statements do mean the same thing.

As mentioned above, the Examiner pointed out that according to the Schultzrinne reference, the SIP INVITE message has the form “user@IP address.” The Examiner comes to the conclusion that even though both the user and the IP address of the destination user agent are both specified by a SIP INVITE message, the destination user agent is somehow not specified. The Appellants believe that the Examiner’s argument contradicts itself. Further, the Appellants point out that the Examiner is not interpreting Schultzrinne properly. Referring to the second column on page 69, Schultzrinne teaches:

“To be invited and identified , the invitees have to be
named. Since it is the most common form of user
addressing in the Internet, SIP chose an e-mail like
identifier of the form user@domain or user@IP address.”

Thus, contrary to the Examiner’s assertions, a SIP INVITE message does in fact identify the called party, the destination user agent (DUA).

The Appellants also point out that Schultzrinne never identifies “play” as a DUA. In fact, the names referenced on the Figure are largely unexplained. Thus, the meaning of the term is rather unclear.

In the present case, the source user agent is the caller (inviter) and the destination user agent (invitee) is the called party. On page 9 of the specification, the source user agent is identified as the originating agent, e.g., the person or machine which originates a session participation request. The DUA is referred to as a “called party destination user agent,” in other words, the machine or person which is supposed to receive the telephone call. The present invention teaches that the calling party (SUA) identifies the called party

(DUA) by sending a SIP INVITE message that includes the real IP address of the called party. As Schultzrinne teaches, a SIP INVITE message both invites and identifies.

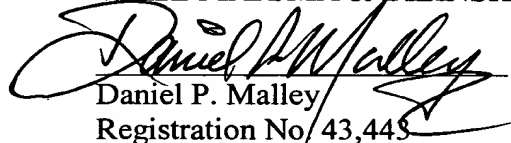
The Examiner makes other extraneous arguments. The Examiner argues that "it is a well known principle that a user can travel from one DUA to another, while maintaining the same IP address; therefore, each DUA can change its IP address, while the user maintains the same IP address." The Appellants disagree. First, if this proposition is so well known, the Examiner should have provided some support for it. Second, as defined by the specification, a DUA is a user (e.g., a called party) that can be identified in a SIP INVITE message that includes the real IP address of the DUA.

In summary, the Examiner argues that a SIP INVITE message that includes the real IP address of the destination user agent (DUA) does not, in fact, identify the DUA. As mentioned above, Schultzrinne clearly teaches that the SIP INVITE message both invites and identifies. Therefore, a SIP message that includes the real IP address of the DUA both invites and identifies the DUA.

In view of the foregoing, and additionally for the reasons set forth in the appellant's Appeal Brief, the final rejection of the claims should be reversed.

Respectfully submitted,

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